

# Louisville Metro Police Department

Standard Operating Procedures	SOP Number: 2.10
	Effective Date: 02/16/04
	Prv. Rev. Date: 02/10/19
	Revised Date: 11/11/19
Chapter: Personnel	Accreditation Standards: KACP: 10.2, 12.2, 12.4, 12.6, 30.4
Subject: Complaints	

## 2.10 COMPLAINTS

### 2.10.1 COMPLAINTS AGAINST MEMBERS

It is the policy of the Louisville Metro Police Department (LMPD) to investigate all complaints of alleged misconduct or criminal misconduct on the part of all members, and to equitably determine whether the allegations are valid or invalid and to take appropriate action. Anonymous complaints are carefully reviewed for validation before dismissing them for the lack of a credible complainant (KACP 12.6b). Per Kentucky Revised Statute (KRS) 67C.326(1)(a)(3), charges shall be brought against a member only if the investigation can independently substantiate the allegations made in an anonymous complaint.

The Chief of Police has the ultimate authority to determine the disposition of all administrative investigations and to administer discipline based on the facts of the case (KACP 12.6i). In order to retain flexibility in the disciplinary process and to take into account mitigating circumstances, determinate discipline will not be utilized, except in those cases deemed appropriate by the Chief of Police. The Chief of Police will communicate, in writing, to the complainant and the member, his/her findings and what action has been taken (KACP 12.6g).

Annually, the Chief's Office will issue a statistical summary of all complaints and disciplinary action on departmental members. This summary will be available to departmental members and for public dissemination (KACP 12.6j).

The Professional Standards Unit (PSU) conducts administrative investigations of complaints against members of the department and is the central repository of all complaints, administrative investigations, and disciplinary actions taken by supervisors. All investigations are conducted with strict confidentiality (KACP 12.4, 12.6d, k). The PSU enters the complaints into a log book, which captures specific information. The PSU also provides an acknowledgment of the complaint to the person(s) initiating the complaint, if known. All investigations are conducted in accordance with federal and state law, contractual guidelines, and departmental policy (KACP 12.2c). Every attempt should be made to complete the investigation within 45 days; however, extensions may be granted on a case-by-case basis (KACP 12.6e). Periodic status reports will be provided to the complainant when requested. If an investigation lasts longer than 45 days, periodic status reports will be provided to the complainant on a regular basis.

Members will be notified of a complaint against them by the PSU according to the PSU operating procedures (KACP 12.6f). Members may be placed on administrative leave or administrative reassignment during the investigation, at the discretion of the Chief of Police (KACP 10.2a, 12.6h).

The PSU records all pertinent information of the complainant, information about the specific complaint (e.g. location, date, and time), the person who received the complaint, how the complaint was received, vital information of the member involved, and a summary of the incident (KACP 12.6c).

The Public Integrity Unit (PIU) is responsible for all criminal investigations of members (KACP 12.6d).

Pursuant to KRS 620.030 and Louisville Metro Code of Ordinances (LMCO) 35.200, complaints against members or civilian police volunteers involving the physical or sexual abuse of a minor shall be immediately reported to the PIU, the Chief of Police, the Kentucky Cabinet for Health and Family Services (CHFS), and any one of the following:

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## 2.10.1 COMPLAINTS AGAINST MEMBERS (CONTINUED)

- The Office of the Commonwealth's Attorney
- The Jefferson County Attorney's Office
- The Kentucky State Police (KSP).

Documentation of notification will be retained in the investigative case file. Any failure to report suspected abuse will be subject to discipline, up to, and including, termination. Officers with special investigative knowledge or experience may be called upon to assist the PIU in a specific investigation (e.g. Traffic Unit, Homicide, Crimes Against Children Unit (CACU), etc.). Officers assisting the unit will report all findings and conclusions of the investigation directly to the PIU Commander.

Complaints, which are likely to have a serious adverse impact upon the department, will be reported immediately, through the appropriate chain of command, to the Chief of Police.

## 2.10.2 CITIZENS' COMPLAINTS

An administrative investigation may be initiated either by the Chief of Police, a member of the department (refer to SOP 2.10.3 and SOP 2.10.4), or a citizen.

If a citizen with a complaint approaches a member, other than a commanding officer, the member will immediately notify a commanding officer. The commanding officer will fully inform the citizen of the complaint process and determine if the citizen wishes to (KACP 12.6b, e):

- Have the commanding officer attempt to resolve the concern with no affidavit; or
- Give a sworn statement, in affidavit form, to the PSU.

Commanding officers are encouraged to resolve minor concerns if the concern can be resolved to the satisfaction of all parties. However, the commanding officer must advise the citizen that no disciplinary action will result if the concern is resolved in this fashion. If the citizen wishes to file a formal complaint, the commanding officer will advise the citizen to contact the PSU. **Only members of the PSU may take affidavits.** The commanding officer will assist the citizen by providing the working hours, telephone number, and location of the PSU.

After a member is advised of a complaint against him/her, he/she will not knowingly have contact with the complainant or witnesses from outside of the department, except in exigent circumstances, within the scope of his/her duties, or until the case is disposed. If any contact is made, he/she should immediately notify his/her commanding officer.

## 2.10.3 INTERNAL ADMINISTRATIVE INVESTIGATIONS

Supervisors have the responsibility to investigate administrative violations (e.g. sick leave abuse, tardiness, pursuit violations, etc.) (KACP 10.2c, 12.6a, d). The findings of these administrative investigations will be forwarded, through the appropriate chain of command, to the Chief of Police.

# Louisville Metro Police Department

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Subject: Complaints	

## 2.10.4 HARASSMENT/SEXUAL HARASSMENT/SEXUAL ABUSE AND DISCRIMINATION (KACP 30.4)

The department is committed to making every reasonable effort to prevent individuals from being subjected to harassment/sexual harassment/sexual abuse and discrimination, or a sexually hostile working environment, by departmental members. Sexual harassment is considered:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature to constitute sexual harassment when: (1) the submission to such conduct is made, either explicitly or implicitly, as a term or condition of an individual's employment; (2) the submission to, or rejection of, such conduct by an individual is used as the basis for an employment decision affecting such individual; (3) such conduct is so severe or pervasive that it has the purpose, or effect, of unreasonably interfering with an individual's work performance or creating a sexually intimidating, sexually hostile, or sexually offensive working environment; or (4) such condition that may not be sexual in nature, but may lead to a sexually hostile or sexually offensive working environment, thereby creating intolerable working conditions.

Sexual abuse is considered:

Unwanted sexual activity, with perpetrators using force, making threats, or taking advantage of victims who are unable to give consent.

Sexual discrimination is considered:

Treating someone (an applicant or employee) unfavorably because of that person's sex.

Federal law forbids discrimination when it comes to any aspect of employment, including hiring, firing, pay, job assignments, promotions, layoffs, training, fringe benefits, and any other term or condition of employment.

Complaints of misconduct, including harassment/sexual harassment/sexual abuse and discrimination, by a departmental member against another individual will be sent, through the appropriate chain of command, to the division commander, who will then forward the information to the Special Investigations Division (SID) Commander, the Human Resources (HR) Compliance Manager, or directly to the Chief of Police (KACP 12.6b-c). If the complaint involves sexual harassment and/or sexual abuse, the commander will immediately verify that the member, to whom the allegations are directed, is moved to avoid contact with the complainant. The commander will conduct a preliminary investigation and, based on the information gathered, the Chief of Police may initiate an investigation by the SID (KACP 12.6d).

Members inhibited by the chain of command may report instances of harassment/sexual harassment/sexual abuse or discrimination directly to the Chief's Office or the SID Commander (KACP 12.6b).

Members are prohibited from retaliation against any individual because he/she has filed a complaint, has investigated a complaint, or has provided information regarding a complaint. Any member who engages in retaliation against an individual who has filed a complaint or provided information concerning a complaint may be subject to discipline. Any member who feels he/she has been subjected to such retaliation should report this action through the appropriate chain of command, to the division commander, who will then forward the

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## 2.10.4 HARASSMENT/SEXUAL HARASSMENT/SEXUAL ABUSE AND DISCRIMINATION (CONTINUED)

information to the SID Commander, the HR Compliance Manager, or directly to the Chief of Police (KACP 12.6b-c).

## 2.10.5 RACE DISCRIMINATION AND HARASSMENT

The department is committed to providing a work environment that is free of discrimination and harassment based on race.

Race discrimination is considered:

Treating a person unfavorably because he/she is of a certain race or possesses personal characteristics, often or commonly associated with a certain race (e.g. skin color, hair texture, facial features, etc.).

Discrimination can occur when the victim and the person discriminating are of the same race.

Race discrimination can also involve treating a person unfavorably because the person is married to, in a relationship with, or associated with a person of a certain race.

Federal law forbids the harassment of a person because of his/her race. This type of harassment includes, but is not limited to:

- The written or verbal use of racial slurs;
- The written or verbal use of offensive or derogatory remarks about a person's race; and
- The displaying of racially-offensive symbols.

Complaints of race discrimination or harassment by a departmental member against another individual will be sent, through the appropriate chain of command, to the division commander, who will then forward the information to the SID Commander, the HR Compliance Manager, or directly to the Chief of Police (KACP 12.6b-c). The commander will conduct a preliminary investigation and, based on the information gathered, the Chief of Police may initiate an investigation by the SID (KACP 12.6d).

Members inhibited by the chain of command may report instances of discrimination or harassment directly to the Chief's Office or the SID Commander (KACP 12.6b).

Members are prohibited from retaliation against any individual because he/she has filed a complaint, has investigated a complaint, or has provided information regarding a complaint. Any member who engages in retaliation against an individual who has filed a complaint or provided information concerning a complaint may be subject to discipline. Any member who feels he/she has been subjected to such retaliation should report this action through the appropriate chain of command, to the division commander, who will then forward the information to the SID Commander, the HR Compliance Manager, or directly to the Chief of Police (KACP 12.6b-c).

# Louisville Metro Police Department

Standard Operating Procedures	SOP Number: 2.11
	Effective Date: 11/16/03 Prv. Rev. Date: 09/10/18 Revised Date: 10/25/19
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Chapter: Personnel	
Subject: Discipline	

## 2.11 DISCIPLINE

### 2.11.1 POLICY

The Chief of Police has the ultimate authority to impose discipline, including demotion and termination/discharge. All disciplinary actions taken under this policy are subject to, and will be consistent with, applicable federal and state laws, local ordinances, administrative rulings, and collective bargaining agreements (KACP 12.2c).

### 2.11.2 SUPERVISORY RESPONSIBILITY

Supervisors are responsible for the detection and investigation of violations of departmental orders, policies, or procedures. In addition, supervisors at all levels are responsible for the administration of corrective action (KACP 12.3). Supervisors have the continuing opportunity to observe members' conduct and appearance and will administer corrective action where it will be the most effective (KACP 4.4). Corrective action may take the form of remedial training or counseling.

Supervisors are expected to take immediate action when a member (KACP 12.3):

- Jeopardizes the health and safety of other members or the public; or
- Brings discredit upon the department.

In the event that a supervisor is not present and the actions are witnessed by another member, that member will immediately notify a supervisor.

### 2.11.3 RESPONSIBILITIES OF ALL MEMBERS

Members are required to immediately notify their commanding officer or civilian supervisor of:

- Any violations of laws.
- Any pending or new criminal charges.
- Violations of orders, policies, or procedures.
- Disobedience of orders by other members.
- Mismanagement related to the effective and efficient operations of the department.

The supervisor or commanding officer must document specific violations.

Members inhibited by the chain of command from reporting misconduct are required to submit the information directly to the Chief of Police or to the Special Investigations Division (SID) Commander, in writing.

Members are prohibited from taking punitive action or discriminating against any member who reports a violation under this policy.

# Louisville Metro Police Department

Standard Operating Procedures	SOP Number: 2.11
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Subject: Discipline	

## 2.11.4 CORRECTIVE ACTION AUTHORIZATION

Depending on the type of infraction, corrective action may be progressive.

A supervisor may (KACP 12.2b):

- Recommend remedial training (contact the Training Division for procedures and criteria).
- For sworn members:
  - Performance observation.
  - Effect an emergency suspension.
  - Recommend any of the following progressive disciplinary actions:
    - Issue an oral reprimand
    - Issue a written reprimand
    - Demotion
    - Termination/discharge
- For civilian Teamsters members:
  - Issue a verbal warning
  - Issue a written warning
  - Recommend a written reprimand
  - Effect an emergency suspension
  - Recommend termination/discharge
- For civilian Vehicle Impoundment Unit (VIU) members:
  - Issue a warning
  - Recommend a written reprimand
  - Effect an emergency suspension
  - Recommend termination/discharge

Metro Government has the right to discipline or terminate/discharge members for just cause.

- For all other civilian members (e.g. non-union, Traffic Guards):
  - Counsel.
  - Effect an emergency suspension.
  - Recommend any of the following progressive disciplinary actions:
    - Written reprimand
    - Demotion

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Chapter: Personnel	
Subject: Discipline	

## 2.11.4 CORRECTIVE ACTION AUTHORIZATION (CONTINUED)

- Termination/discharge

## 2.11.5 COUNSELING (KACP12.2a)

A supervisor may privately counsel a member to:

- Advise him/her of inadequate performance.
- Advise him/her of the supervisor's and the department's expectations.
- Determine possible causes for inadequate performance and make appropriate referrals.
- Assist him/her with strategies for improving job performance.
- Advise him/her of possible consequences if performance fails to improve.

The supervisor will document key points of the counseling session, monitor the member for compliance, and document the effect of the counseling.

## 2.11.6 EMERGENCY SUSPENSIONS

Any supervisor may impose an emergency suspension upon a subordinate member when it appears that such action is in the best interest of the department. Any civilian supervisor may impose an emergency suspension upon a subordinate member within his/her direct chain of command. Appropriate circumstances include, but are not limited to (KACP 12.2b):

- Criminal acts.
- Reporting for duty under the influence of alcohol, illegal drugs, or a combination thereof.
- Interference with the administration of corrective action.
- Gross insubordination or disrespect to a supervisor.

The suspended member will surrender the following departmentally-issued equipment, at a minimum:

- Identification.
- Badge, if applicable.
- Departmentally-issued weapons and/or ammunition, if applicable.
- Vehicle, if applicable.

The supervisor imposing the suspension will take custody of the surrendered items and notify the appropriate commander, as soon as practical, after the incident. Pursuant to Kentucky Revised Statute (KRS) 67C.326(1)(c), the supervisor may require a member to explain, in writing, any incident or actions which led to the emergency suspension by the end of the member's tour of duty following the day that the department became aware of the incident. The supervisor will direct the member, in writing, to appear in the Chief's Office at 1000 hours on the next business day, unless circumstances dictate a different course of action. The supervisor will also appear at the designated time. Any member placed on emergency suspension will continue to receive

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## 2.11.6 EMERGENCY SUSPENSIONS (CONTINUED)

all pay and benefits pending review of the incident.

Members on emergency suspension will not be restored to duty, pending an investigation or hearing of the charges of which he/she was relieved, except by direction of the Chief of Police or other competent authority. The member will be notified, in writing, 72 hours prior to any hearing.

## 2.11.7 RESTORATION OF POLICE POWERS

When an officer is allowed to return to duty, it is the responsibility of the SID Commander to notify the Assistant Chief of Police/Administrative Bureau, who will notify Police Human Resources (HR) to restore the officer's full police powers. Police HR will issue a Notification of Restoration of Police Powers form (LMPD #03-02-0151). Upon receipt of this form, an officer's full police powers will be restored and his/her equipment returned.

Prior to returning to duty, members will acknowledge that they have read and understood all policies, General Orders, Special Orders, and General Memorandums found in their PowerDMS Document Management System inbox. If members do not have computer access, they will acknowledge that they have read and understood all outstanding policies, General Orders, Special Orders, and General Memorandums by signing the appropriate accountability roster (KACP 4.6d).

If an officer's leave occurs during either spring or fall firearms qualifications, he/she suffers an injury to his/her primary shooting arm or support arm (e.g. hand, wrist, elbow, shoulder, etc.), he/she suffers an injury to his/her legs, or he/she suffers a brain injury, he/she will be required to pass firearms qualifications with his/her Class A pistol and any other firearms carried while on-duty, prior to returning to duty (refer to SOP 4.13).

## 2.11.8 SUSPENSIONS (KACP 12.2b)

A charging letter signed by the Chief of Police explaining the specific reasons for the suspension and the dates of the suspension will be served to the member. The original charging letter will be forwarded to the member's division/section/unit commander for service, who will verify that:

- The date and time of service is indicated on the charging letter.
- The supervisor and the member have signed the charging letter. If the member refuses to sign, this should be indicated on the document.

Signed copies will be forwarded to:

- Police HR.
- Chief's Office.
- Professional Standards Unit (PSU).
- Louisville Metro Police Merit Board.
- Legal Advisor.



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## 2.11.8 SUSPENSIONS (CONTINUED)

The suspended member will immediately surrender the following departmentally-issued equipment:

- Identification.
- Badge, if applicable.
- Weapon and ammunition, if applicable.
- Vehicle, if applicable.

If the suspension is for five (5) days or less, the division/section/unit commander will store the equipment. If the suspension is for six (6) days or more, the equipment will be taken to the Chief's Office and secured in the safe.

When a member is on suspension from the department, he/she is prohibited from acting in an official capacity or representing himself/herself as a member of the department from the start of his/her suspension for 24 hours, or until his/her next regularly scheduled shift (not including overtime). This prohibition includes any work involving specialty team call-outs, overtime, or secondary employment. However, a member who is on suspension from the department is required to attend his/her assigned court event(s), unless otherwise directed by the Assistant Chief of Police/Administrative Bureau.

## 2.11.9 RETURN TO DUTY – SUSPENSION

Since the duration of the suspension is stated, no return paperwork is needed. The member will contact his/her division/section/unit commander to arrange for the return of his/her issued equipment. The equipment will be returned by a commanding officer.

## 2.11.10 DOCUMENTATION OF ACTIONS (KACP 12.4)

A record of all disciplinary actions issued by the Chief of Police is maintained by the PSU and by Police HR in the PeopleSoft System. Disciplinary actions issued by the Chief of Police include:

- Oral reprimands.
- Written reprimands.
- Suspension from duty.
- Suspension of use of a departmental vehicle.
- Termination/discharge.

Supervisors of civilian members may send records for disciplinary action taken to the PSU and Police HR for inclusion in the PeopleSoft System. This includes:

- Verbal warning(s).
- Written warning(s).

All disciplinary documentation is retained pursuant to state statute and contractual agreements.

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Subject: Discipline	

## 2.11.11 TERMINATION/DISCHARGE (KACP 12.2b)

If the Chief of Police believes that termination/discharge is the correct discipline for a non-probationary member, the Chief's Office will provide, to the member, a statement citing the reason(s) and a pre-termination/discharge opportunity to respond will be scheduled. The member's division/section/unit commander may, at the discretion of the Chief of Police, be present at the proceeding. The member is not required to attend. If the member is terminated/discharged, the Chief's Office will notify the member, in writing, of the decision and the effective date of the termination/discharge. Metro HR will provide a statement of the status of fringe and retirement benefits after termination/discharge, if requested.

The terminated/discharged member will turn in all departmental equipment to his/her division/section/unit commander. The division/section/unit commander, or his/her designee, is responsible for delivering the appropriate equipment to each area, as stated on the Property Checklist for Retired/Resigned/Terminated Officers form (LMPD #05-02-0301). The division/section/unit commander will contact the Administrative Services Division Management Assistant to schedule an appointment at least one (1) week prior to delivering the appropriate equipment to the Administrative Services Division.

## 2.11.12 DISCIPLINARY APPEALS

Appeals and grievances of disciplinary actions will adhere to all applicable state laws, contractual agreements, and Louisville Metro Government procedures (KACP 12.5).

When a member receives a written reprimand, he/she may write a letter of response directly to the Chief of Police within ten (10) business days.